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INTERNATIONAL BAR ASSOCIATION

CONFERENCE TOKYO, JAPAN

PLENARY SESSION

MONDAY 20 OCTOBER 2014

WHY LAWYERS SHOULD BE INVOLVED IN HUMAN
RIGHTS IN NORTH KOREA

The Hon. Michael Kirby AC CMG

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COI REPORT AND ITS ADOPTION

The Democratic People's Republic of Korea (DPRK) (North Korea) was created by a decision of the successful allies as the Second World War was moving to its close. Meeting in Cairo, the leaders of the United States of America, United Kingdom and the Soviet Union agreed that, as in the cases of other defeated axis powers (Germany and Austria) the Korean Peninsula would be divided upon the eventual defeat of the Empire of Japan. That defeat was achieved following the explosion of the atomic weapons over Hiroshima and Nagasaki in August 1945. Japan then accepted the terms of unconditional surrender. It thereby lost its empire, beyond the Japanese mainland (as well as some islands of the Japanese kingdom). The Allies agreed to a division of the Korean

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Peninsula which, until then (both during Korean rule of at least 12 centuries and during Japanese rule from 1911-45) had been governed as a single national unit. Suddenly, the two parts of Korea were divided, although the culture, language, traditions and even for a time the laws remained substantially the same.

Even in the northern part of the Korean Peninsula, a separate republic (DPRK) was created which was to be under the predominant influence of the Union of Soviet Socialist Republics. In the south, the new state that eventually emerged, the Republic of Korea (ROK) (South Korea) was to be under the predominant influence of the United States of America. Virtually from the beginning, reflecting the Cold War that increasingly divided the international community after 1945, the two Korean states were at loggerheads.

In each state, authoritarian regimes emerged. Eventually, in the north, a former military officer imported by the Soviet Union, Kim Il-sung, replaced local personalities who had resisted the Japanese imperial rule. He then established a regime substantially copied on the regime led by Josef Stalin in the Soviet Union. That regime was oppressive; built on a cult of personality around the leader; and organised along centralised economic planning which was to prove in Korea, as elsewhere, less efficient than the market economy.

In ROK, the regime was led by a president, Syngman Rhee, who was autocratic but who observed certain democratic forms. The economic success of ROK was to come later; but from the start it was organised along the lines of a free market. Before the line was drawn on the map in 1945, most heavy industry and mineral extraction occurred in the

North. In effect, South Korea was the breadbasket of the preceding unified Korean state.

The Korean War broke out in 1950. Although DPRK has always alleged that it was triggered by an attack on its territory by forces of ROK, supported by the United States, this version of events was always hotly contested in ROK. Recent contemporaneous documentary evidence has confirmed the ROK version of events. Minutes of discussions between Stalin and Kim Il-sung reveal that Stalin, for the Soviet Union, eventually gave way to repeated demands for authority to attack South Korea. However, he made it clear that Soviet troops would not be provided. Thus began the cruel and bloody conflict known as the Korean War. It had devastating personal, economic and military consequences for both Korean states.

After initial success, the forces of DPRK were driven back into North Korea by a United Nations force under the command of General Douglas MacArthur. So successful were the United Nations forces that they almost reached the Chinese border at the Yalu River. At this point “volunteers” from the newly established People’s Republic of China surged into North Korea and beat back the United Nations forces, virtually to the centre of the peninsula where the original dividing line had been.

An armistice was declared in 1953. No peace settlement or treaty has ever been signed. The border between the two Korean states is probably the most heavily mined and closely defended in the world. Behind this fortified division of the Peninsula, the two Korean states proceeded to develop their own societies. In the South, the ROK,

following years of military rule, eventually emerged as a vigorous multi-party democracy with regular changes of administration. In the North, a Soviet style system of government was created which ceded substantial real power to the Korean Worker's Party; the Army and a small elite gathering around the successive members of the family of the founder; Kim Il-sung. These leaders were, in turn Kim Jong-il (1994 – 2011) and Kim Jong-un (2011-). Predictions that, as with other Soviet bloc states, the conditions in DPRK would ameliorate and change with the passage of time and of supreme leadership, have not been fulfilled. Kim Jong-un inherited a high level of autocratic power. The full extent of this was demonstrated in December 2013 when he caused the second or third most powerful man in the North Korean establishment, his uncle by marriage (Jang Sung-thaek) to be arrested, summarily tried and executed by firing squad.

In the south, the ROK made attempts to procure peaceful reunification and demilitarisation. Under President Kim Dae-jung, a so-called "sunshine policy" was adopted. However, far from resulting in reunification, this period was utilised by DPRK to eventually denounce and withdraw from the United Nations Nuclear Non-Proliferation Treaty. An active nuclear weapons program was undertaken. This has produced a reported 20 nuclear warheads. As well, a missile delivery system has been developed and demonstrated. This potentially puts at risk lives and property in DPRK itself, ROK, Japan, China and even farther beyond.

DPRK has suffered grave famine and economic hardship because of the inefficiency of its domestic market. Reports of large detention camps, where thousands of suspects and their families were imprisoned began

to seep out to the surrounding world. Finding accurately the facts about human rights in DPRK was not easy. Essentially, it has been for decades a closed society. Some tourism is permitted but it is closely policed and monitored. Free travel and easy access to the local population is forbidden. Free travel and access to the internet even for the local population is impossible. Severe restrictions are placed upon the sources of information. Even possessing soap operas from ROK, in the Korean language, is a serious offence. In the background of these films are the sights of the highly prosperous, modern and dynamic society of ROK today.

This was the background to the creation, in March 2014, of a Commission of Inquiry of the Human Rights Council. The case of DPRK, the COI was created without even a call for a formal vote. Such were the concerns over the reports of serious human rights violations. The three members of the COI were appointed by the President of the HRC in May 2014. Work of the COI commenced in July 2014. That work proceeded in a way novel for UN inquiries. Public hearings were held in Seoul, Tokyo, London and Washington D.C. Large numbers of witnesses came forward to give their testimony in public. The testimony was filmed and films and transcripts were immediately placed online. They are not available to the population in North Korea.

The COI found many human rights violations. Some of them rose to the level of crimes against humanity. The COI concluded that it should not find that genocide had been established. But this was only because the orthodox legal definition of genocide is confined to the crime of homicide and violence directed at a population or group of a population for

reasons of race, nationality, ethnicity or religion. In DPRK, the motivation is usually political.

The COI report was released in February 2014 and presented to the HRC on 17 March 2014. It recommended immediate improvement of person-to-person contacts between the two Koreas. It urged many changes in policies on both sides of the Demilitarised Zone. It proposed reference of the case of North Korea (specifically the crimes against humanity) to be examined by the prosecutor of the International Criminal Court. Because DPRK is not itself a party to the *Rome Statute* creating that court, such a referral could only happen with the vote of the Security Council. So numerous, serious, prolonged and shocking were the crimes against humanity detailed in the COI report that, if this case is not suitable for referral, it is difficult to imagine a case that would be.

REACTIONS TO THE COI REPORT

In accordance with normal procedures, the HRC in Geneva debated the COI report over an extended period in March 2014. The HRC had before it not only the damning conclusions and recommendations of the COI. It also had:

- * The refusal of DPRK to extend an invitation to the UN High Commissioner for Human Rights to visit its country to discuss the human rights situation and to consider technical and other assistance that might be offered;
- * The insistence of DPRK in its first cycle of the new system of Universal Periodical Review (UPR), undertaken by the HRC, to

acknowledge a single one of the 167 recommendations for improvement in human rights protection in the country;

- * Additionally, DPRK has refused, from the outset, to permit the Special Rapporteur, appointed by the HRC for human rights in DPRK to visit the country. It has given no support or co-operation with that officeholder. Two distinguished lawyers from Asia have held that office (Professor Vitit Muntarbhorn from Thailand and former Attorney-General Marzuki Darusman from Indonesia). Co-operation has been nil; and
- * DPRK gave no cooperation to the COI, refused to meet its members; declined to permit a visit to their country; and denounced the report once it was published.

In the HRC, there were earnest debates over the findings, conclusions and recommendations of the COI. In the end, a motion proposed by the European Union, Japan and likeminded countries was overwhelmingly adopted. Thirty of the 47 countries voted in favour of the motion. From the Asia/Pacific region these included:

- * Japan;
- * Kazakhstan;
- * Maldives;
- * Philippines; and
- * Republic of Korea.

Six countries only voted against the motion (and thus the COI report). These were Cuba and Venezuela plus four countries of our region:

- * China;
- * Pakistan;
- * Russian Federation;
- * Vietnam.

But the most disappointing feature of the vote of the HRC for me was the abstention of leading countries of the Asian regions, whose own struggle for independence, fundamental human rights and the rule of law has been so admirable. I refer to:

- * India;
- * Indonesia.

The abstention of South Africa, whose struggle against apartheid was so noble was specially surprising because of the racist *Songbun* policy revealed in the COI report. This is a policy that classifies the population according to political inclinations. There was also evidence of prejudice and discrimination against women who had become pregnant to foreigners because of the “impurity” this introduced into the Korean base. In the face of such evidence, it is difficult to know what kind of base would attract the engagement and endorsement of the countries concerned.

Specially interesting was the support voiced at the HRC by countries that had formerly been members of the Soviet bloc. Of those countries that were members of the HRC, the following voted in favour of the resolution:

- * Austria (partly);
- * Czech Republic;
- * Estonia;
- * Germany;
- * Kazakhstan;
- * Romania;
- * Former Yug. Rep. Macedonia.

After the vote in the HRC, Security Council members (France, United States and Australia) called for an “Arria” briefing. This took place in New York on 17 April 2014. Two of the permanent 5 member countries of the Security Council (China and Russian Federation) were absent from the briefing. However, of the remaining 15 participants, most spoke strongly in favour of the COI report. Of the 13 participants, 11 declared themselves in favour, to some degree, of the proposal to refer the case to the ICC. No state that spoke at the HRC or SC criticised or doubted particular findings of the COI. The typical objection of the 6 nations which, in the HRC, voted against the resolution was addressed to the country specific mandate of the COI. This was presented as a stance of principle. However, once the majority of members (without a vote) created a COI, the refusal to consider the resulting report by reason of a procedural objection appears highly formalistic. Where the highest organs of the United Nations have evidence about grave human rights abuses, a refusal to attend to them or even to consider what should follow from them is tantamount to excusing shocking international crimes in the face of the evidence showing that such crimes have probably occurred.

All of the talk in the United Nations of the Responsibility to Protect (R2P) for international crimes; accountability for great wrongs; and 'rights up front' are made to appear hypocritical if, in the face of the damning evidence assembled by the COI.

FOLLOW UP IN THE GA AND SC

The COI report and the resolution of the HRC now proceeds to the United Nations General Assembly (GA). The General Assembly is already, at this time, preparing to consider the report. Events surrounding the consideration have occurred in New York. On 23 September 2014 an event organised by civil society organisations concerned about DPRK took place and United States Secretary of State John Kerry attended to outline the United States position. A further event will occur on 22 October 2014 at the United Nations building. I am hoping myself to participate in that event.

Obviously concerned by the very strong vote that was taken in the HRC, the strong support for the COI report voiced in the 'Arria' briefing before members of the SC, and widespread publicity attaching to the report in the local and international media, DPRK entered upon a strategy seemingly designed to head off the strong wave on sentiment, demanding that action should be taken on the COI report:

- * DPRK launched a number of ameliorative actions of its own, including a decision to send a large team of competitors to participate in the Asian Games in September 2014, although these were convened to occur in Incheon in ROK;

- * Within the HRC, DPRK revised its approach to the UPR conducted by the HRC. In its second cycle review of the inclusions and criticisms voiced in the response to its human rights cause, DPRK announced that it had “evolved” to a position of accepting 81 of the initial 167 recommendations. As to the second cycle of UPR, it accepted 113 out of 268 recommendations fully and 4 partially. It noted 58 further recommendations and rejected 93. None of the recommendations accepted concerned critical proposals touching the political powers of the state, party and military;
- * In response to the strong criticism by Japan of its admitted state policy of abductions of Japanese nationals, DPRK in secret talks, agreed to a meeting in Mongolia between members of the family of one abductee and her parents living in Japan. The abductee had disappeared on 15 November 1977. She was alleged to have died in 1993. Her ‘remains’ returned to Japan did not produce a positive DNA test. However, a meeting with her daughter and granddaughter was hosted by Mongolia; and
- * On 13 September 2014, DPRK published its own report on the state of human rights in DPRK. It had been predicted that this report would be produced and would prove ‘rosy’, so far as the state of human rights in DPRK was concerned. The report contains few surprises. There are frequent denunciations of United States of America, Japan, ROK and their ‘lackeys’. There is an exposition of the formal state structure and legal system, asserting that this is human rights compliant. DPRK insists on its right to sovereignty and its immunity from pressure from the international ‘human rights racket’. It declares that its own human rights record is excellent because of the privileges enjoyed by the ‘unique system of socialist production’ and the legitimate

entitlement to defend this against the 'hostile forces against the DPRK and its socialist system'.

The procedures adopted by DPRK in preparing its own self-exculpating report can be contrasted with the procedures adopted by the COI:

- * There were no public hearings or opportunities for input from civil society. The report bears the hallmark of bureaucratic prose full of praise for the government and devoid of acceptance of specific needs of improvement;
- * No access has apparently been given to citizens of DPRK to the COI report. Although this is available online, access to the internet is not possible in DPRK, except for a small elite. The procedures used to produce the DPRK report and be compared to the transparency followed by the UN COI; the availability of images and transcripts online; and the free access to media and openness to criticism evidenced by the COI;
- * The DPRK report repeatedly defends the indefensible, including the near 100% turnout in elections and voting for the ruling party. The adulation extended to members of the Kim family contrasts with the neutrality of the COI report; and
- * Whereas the COI report is readable and made vivid by the testimony of refugee witnesses who recount their own experiences, the government's report is turgid; enlivened only occasionally by vitriolic adjectives deployed to denounce forces seen as hostile to DPRK.

Some notion of the attitude of the DPRK report towards the COI can be found in the following passages:

- * The US and Western countries misuse universality of human rights standards established in the international human rights instruments and they are going to endless lengths in their manoeuvres to force their “human rights standards” upon other countries as they did before. These countries make the rumour afloat that their “human rights standards” are the “fair standards” and “the best standards” which can be decided... [but they are] reactionary ones applied in the imperialist way of thinking, with the view of value and way of life which look down, oppress and dominate others... It was proved vividly that “COI” attempted to bring down the DPRK by collecting the prejudiced “data” without any scientific accuracy and objectivity in the content and raising the publication of “report” of intervention which is extreme in the selectivity and double-dealing standards.

Later, the DPRK report warns to this theme:

“The south Korean authorities go mad to defame the dignity and system of the DPRK, taking part in the US smear campaign against the DPRK’s human rights. The Intelligence Service and all other plot-breeding organisations guide the people to south Korea and bribe them to talk evil about the DPRK in international arena. They also play the role of “witness” in the slanderous propaganda completely forgetting that they are people who committed crimes in the DPRK and fled to other countries, leaving their family. The south Korean authorities used the dirty and worthless human scums as the “witness” in fabricating the anti-DPRK human rights report and instigated them to slander the socialist system of the DPRK in parliaments and debates held in US, UK,

Switzerland and etc. Furthermore, they made films and published books, full of testimonies given by these scums. They are devoted to [brainwashed] the human scums and train them as the brigade in the malicious propaganda against the DPRK. Under the protection of the south Korean authorities hundreds of thousands of leaflets, defaming the system and dignity of the DPRK, were spread around the areas of the demarcation line... meanwhile the authorities flocked together with the outside forces to intensify the smear campaign against the DPRK on the human rights in UN and co-sponsored with them in the UN Human Rights Council to prepare falsified document on the DPRK's human rights, claiming that "evidence is needed for the international community to take military action concerning with the human rights of the north." What's more, south Korean authorities volunteered for the instalment of "field-base structure of north Korean human rights" and tried desperately for instalment in south Korea. Whatever the US and its followers slander the human rights situation in the DPRK, they can't fabricate the actual situation in the DPRK and what's more they can't dismantle the socialist system that ensures the protection and promotion of the genuine human rights of the Korean people."

Although the passage about taking military action appears as a quotation, its source is not identified (unlike all such sources in the COI report). No such statement of military action was ever propounded by the UN COI. Nor did it propose regime change as a solution. Its sole demand was that, as a UN member country, DPRK should comply with the requirements of the *Charter* of the United Nations and the UN treaties which DPRK has ratified.

The major thrust of the report of the DPRK is addressed to the insistence that, as a “sovereign” country, DPRK is not deceptable to the demands and pressures of the international human rights system or international law. This repeated insistence throughout the DPRK report upon old-fashioned absolute “sovereignty” is inconsistent with the new world order established by the *Charter*. By that system, both to protect the “peoples of the united nations” (in whose name the UN is founded) and to defend the universal human rights of people everywhere, the nations that created the UN agree to cede certain rights in order to establish the principles and institutions of international human rights law. This was done out of recognition of the fact that war crimes, genocide and crimes against humanity, happening behind national borders, could provoke and enhance grave risks to international peace and security. As the *UNESCO* Constitution stated, soon after the birth of the United Nations, “since wars begin in the minds of men, it is in the minds of men that the defences of peace must be built”.

DPRK has ratified many of the core UN treaties on human rights. In its government’s report it even concedes that:

“International human rights instruments are ... “junior international law” for their immense scope and context and are divided into several categories... international human rights instruments are distinguished from other international laws as they cover all issues concerning human rights and lay down principles for its promotion. International human rights instruments sent forth as their basic principles respect the dignity and value of person, prohibition of all forms of discrimination, ensurance of freedom and equality. They play an important role for promoting human rights both at the national and international level”.

But despite this apparent concession, the DPRK insists that:

“Each nation applies an international human rights convention based on its approval and ratification of the convention however, provisions set forth in the convention should not be applied without any consideration. As the situation, condition and standard of human rights vary according to each country, it is necessary to consider the will and requirement of the country concerned in interpreting and applying the international human rights instruments”.

This, then, is the bottom line of the DPRK position. International human rights law is fine. But only so far as it reflects the “will and requirement” of the country concerned. It asserts its entitlement to ignore language of the instrument; its clear intent; the institutions that have been created to give effect to the instrument; the organs of the United Nations designed to implement and uphold the instrument; and the body of international expert opinion on the requirements. The DPRK would plunge the world back into the lawless jungle world of pre-UN uncontrolled national “sovereignty”. If this were demanded by a law-abiding, temperate and peaceful nation, it would be serious enough. But, instead, it is the assertion of a nation possessed of nuclear weapons, developed in duplicity, expanded in the face of treaty obligations, and enlarged so as to provide a threat to peace and security in the region of DPRK. If the world were to become a plethora of nations with the nuclear, military, missile and human rights disrespecting attitudes of DPRK, the long-term survival of the human species would be most seriously in doubt.

Every now and again in the DPRK's parallel report, glimpses are allowed into the *Realpolitik* that lies behind the assertion that the power holders in the DPRK must have the last say on the meaning and application of the international human rights instruments to which that country has subscribed. Take the following extracts as examples:

- * "Human rights could be only guaranteed by principled standards which respect the principle of international law and demand of people in *each country* not by the arbitrary "standards" geared towards the narrow, selfish and vulgar purposes."
- * "Election laws on the reflection of the intention of the popular mass for the first time in the history of the DPRK regulated the content to make people elect representatives directly thus 99.6% of the whole electors participated in the election. Approval rate was 97% in election of provincial areas, 95.4% in the level of the city and 96.9% in the level of the country... The fact that the candidates from all walks of life were elected and broad masses of people participated in the election and cast the favourable vote, showed that election laws established in Korea were democratic one which reflected exactly the demand of the people who exercised the political rights though election".
- * "The fall of the Berlin Wall, the symbol of Cold War between the East and West, in November 1989, led to the collapse of socialism in several countries of East Europe and eventually the dissolution of the Soviet Union... For this reason, the DPRK conducted the work of further strengthening the functions of people's *democratic dictatorship* and increasing the nation's defence capabilities in every way. The important thing here is that the state structure has

been turned in to the one of attaching importance to national defence.”

- * “The work of protecting and promoting human rights is closely related to the stand and attitude of the law enforcers and social workers who are directly responsible... [They must] possess sound view and attitude towards people and high level of legal knowledge. That is why the DPRK Government performs the rank of law enforcers and social workers including government officials, judges, lawyers, prosecutors, people’s security officers with true faithful servants of people and regularly organises events for them such as short-term, in service training...”
- * “According to the regulation on facilitating assemblies and demonstrations, a notification is made to the People’s Committee and People’s Security Organ of the corresponding area three days prior to the holding of the assembly or the demonstration. A written notification should mention the purpose, date and time, location, organiser and size of the demonstration. The notified organ (People’s Committee and People’s Security Organ) provides assistance to ensure necessary conditions, safety and order for the assembly and demonstration... Prohibition of anti-government associations is a matter of vital importance related to the destiny of the Republic and the prospect of the protection and promotion of people’s human rights under the situation where the US and western countries are attempting to undermine the socialist system of the DPRK by creating and instigating such associations” ...
- * “Freedom of religion is allowed and provided by the State law within the limit necessary for securing social order, health, social security, morality and other human rights. Especially, the

government prevents the religion from being used to draw in foreign forces or harm the state and social order.”

- * In recent years the US is kicking up a row about “arbitrary imprisonment”, “extra judicial execution”, “torture” and “abduction” by using riff raff of all kinds. As far as those riff raffs that the US is using as “witnesses” are concerned, they are fugitives that committed extremely serious crimes against the country and people. They are terrorists that oppose the social system of the DPRK where people enjoy the genuine life and happiness and they are the objects of punishment by the criminal law of the DPRK... The subjects of death penalty are the criminals that committed extremely serious crimes of plotting to overthrow the government, terrorist acts, treason, sabotage and subversion, international murder, drug trafficking and smuggling”.
- * Right to adequate standards of living is important to the socio-economic rights of the people... At present people in capitalist countries are in deep agony over the heavy burdens of living expenses. People in the DPRK, thanks to its people-oriented policy, are living with no worries of paying for food and house fee from the moment of their birth. This fact alone proves that the socialist system of the DPRK is the land of bliss for the people. Efforts are made in the DPRK to ensure the rights of the people to adequate standard of living by increasing agricultural production, developing light industry and effecting a turning point in construction”... The state takes steps to make sure educational bodies have the right contents of education in accordance with educational purpose and characteristics of subjects...”
- * “Members of the “COI” are despicable human rights abusers bribed by the US and its Allies to distort the facts and deliberately

tarnish the image of a sovereign state. The HRC makes a fuss about fictitious “human rights situation” based on false documents, fabricated by those criminals and attempts to put political pressure. This arouses doubt on whether the HRC is an international body serving for the purposes of human rights.”

- * “Since 2003, adoption of “resolution” on human rights against the DPRK every year, followed by the set-up of the “Commission of Inquiry” and fabrication of its “report” has nothing to do with international co-operation for promotion of human rights but is a product of political confrontation and plot by the US and its satellite forces.”

Accepting that some of the infelicities in the DPRK report may be products of imperfect translation occasioned by lack of familiarity with contemporaneous use of the English language, and setting such considerations aside entirely, the net impact of the DPRK report is still sobering. It presents a country arrogantly sheltering behind its dangerous development of military, nuclear and missile capabilities, fundamentally indifferent to the attitude to it of the civilised world and insistent on its “sovereign” right to ‘go it alone’. If the issues in DPRK are studied, not from the stand point of geopolitics but on the perspective of people living in that country, it appears entirely clear that those people cannot safely or at all look to their government to uphold their human rights. Certainly, their human rights as expressed in the international instruments of the United Nations, as expounded by the treaty bodies; as investigated by the special procedures and COIs; and as upheld by the high organs of the Organisation (HRC, GA and SC).

In the end, it may improve impossible to secure the efficient implementation of the findings and recommendations of the COI, as it has proposed. Most especially, it may prove impossible to have the crimes against humanity as found by the COI on reasonable grounds, investigated by a prosecutor of the ICC and, if prosecuted, resolved by the decision of the independent court with relevant jurisdiction, the ICC. The COI examined other possibilities (a specialist tribunal; a joint trial chamber; or eventually national tribunals) established after a significant change of heart on the part of DPRK.

Yet if all of these initiatives are frustrated by a loss of will and resolution on the part of the international community; or exercise of a veto by a permanent member(s) of the Security Council; or because other hurdles and priorities get in the way, all is not lost. One of the recommendations of the COI was the establishment, in the region, of an appropriate “field office” for the United Nations. This, it was hoped, could continue to collect the testimony and bear witness to the complaints of suffering recounted by the many witnesses willing to do this in the ROK and elsewhere. Even at some risk to themselves and their families, these people are willing to do so. Providing them with a platform and giving them a voice to the highest levels of the United Nations and to the huge internet audience throughout the world (but not DPRK) was itself an important achievement of the COI on DPRK. The government of ROK has agreed to the request of the UN High Commissioner for Human Rights to establish such a field office in its territory. This can continue the affirming task of collecting testimonies and recording them as part of the history of the Korean people during this melancholy era.

Eventually, burdens described in the COI report on DPRK will be lifted from the people of North Korea. Eventually change will happen. How it will happen and when it will occur is as yet uncertain. But human history bends in the direction of liberty. It may be that the element, deep in human DNA that thirsts for rationality, justice, kindness and love for one another will take a time to resolve the crisis of human rights violations in DPRK.

Those violations are a blot on the record of DPRK. But they are also a blot on the record of lawyers in the Asia/Pacific region. We have been far too complacent. We have been silent when our voices should have been lifted. We have turned away from this 'hermit kingdom' with its absolute monarchy, mass games and strange relics of its Stalinist past. Our countries have not been adequately insistent on (or contributing to) the change. Of the 6 countries that voted against the COI report in the HRC, 4 are from Asia. Of the great democracies of Asia, heralds of the rule of law, two abstained when it came to a vote. How can one abstain in the face of wrongs of North Korea? What did lawyers and lawyers associations in our region do to prevent or protest at such a response? How can we raise awareness amongst our colleagues, institutions and communities? Why should we be indifferent to the burdens thrust on people of North Korea, simply because we have few links with them?

They are human beings too. They have the same desires as we for peaceful lives, enough food, education for children, emergency healthcare for accidents, freedom to move about, access the global explosion of information and diverse knowledge.

Lawyers should read the COI report. They should watch online video films of the witnesses. They should listen to the pleas for action by the victims. And they should be insistent on accountability for crimes against humanity. Accountability for wrongs to international law. Accountability in the international court with jurisdiction and expertise to protect the vulnerable and to uphold their universal human rights.

Note to MDK

It is true that there are some sections of the DPRK report that are specially interesting to lawyers and legal professional associations. These include descriptions of various kinds of special legislation (on elections, on labour law, on gender equality and 'socialist human rights'; sections on constitutional law and on law as it relates to judiciary, tribunals, lawyers and notaries public. There is even a section on laws protecting international property rights and on organisations relevant to human rights. These include:

- * The DPRK Association for Human Rights Studies;
- * The Korean Lawyers' Society; and
- * The Democratic Lawyers Association of Korea.

The Lawyers' Society was founded in November 1945 and its task is to explain the laws to the country and people and provide legal aid to assist the courts. It is said also to work "to develop the co-operation and exchange with lawyers' organisation of other countries" the Democratic Lawyers Association of Korea was founded in 1954 "with the mission of defending and implementing the DPRK government's ideology and policy on law and strengthening and defending the law system of the Republic including the human rights law system". This body is said to enjoy co-operation with "international and national organisation of lawyers of progressive nature including the International Democratic Lawyers' Association". Lawyers and other citizens are expected to be educated in the "theory and law on human rights" propounded by the Juche Idea expounded by the founder of DPRK, Kim Il-sung. The DPRK report goes on:

“As the graduates who acquired the Juche oriented human rights ideology, theory and law and the international human rights law in the regular education networks advanced to various fields of the state and society, the work of protecting and promoting human rights in the DPRK is being carried forward evermore splendidly.”

They are argumentative, highly critical and even some persuasive statements objecting to absence of human rights in other countries, notably the United States, Japan, the European Union and ‘south Korea’. These enjoy free circulation in most other countries. But this contrasts with the total absence of circulation in DPRK of the COI report.

Some elements of human rights do appear to have improved in the DPRK (and some such improvements are acknowledged in the COI report). These relate to medical care; food availability; increase in compulsory education; and protection of people with disabilities. Such bright lights are, however, rare in a generally dark landscape.